

PATENT

Atty. Dkt. No. 4150D1/ETCH/DRIE/JB1

REMARKS

This is intended supplement the response to the Office Action dated May 10, 2004, filed on October 12, 2004. Please reconsider the claims pending in the application for reasons discussed below.

CLAIM REJECTIONS**35 U.S.C. §103(a): *Pu*; alone and in combination with other art**

Claim 36 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu*. Claims 1-3, 5, 11-12, 14-17, 20-23, 25-26, 28-31, 33-35 and 38-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Masuda*. Claims 4 and 18-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Masuda* and further in view of *Collins*. Claims 6, 13 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Masuda* and further in view of *Reimold*. Claims 24 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Masuda* and further in view of *Banholzer*. Claims 7-10 and 38-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Shan*. Claims 1-3, 5, 11-12, 14-17, 20-23, 25-26, 28-31 and 33-35 and 38-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Lee*. Claims 4 and 18-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Lee* and further in view of *Collins*. Claims 6, 13 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Lee* and further in view of *Reimold*. Claims 24 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Pu* in view of *Lee* and further in view of *Banholzer*. The Applicants disagree.

The Applicants submit that they conceived of and reduced to practice the claimed invention on or before September 23, 1999, the earliest publication date of *Pu* (WO 99/48130). In support of this submission, the Applicants enclose a declaration under 37 C.F.R. 1.132 that has been executed by the Applicants' representative that declares a conception and reduction to practice date for the invention claimed in the above-identified patent application to be on or before September 23, 1999. In view of this

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declaration, the Applicants submit that *Pu* is a 102(e)-type reference, since *Pu* was published after the Applicants' March 7, 2000 filing date.

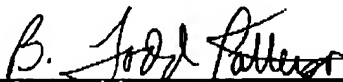
As the inventors of both *Pu* and the present application were employees of Applied Materials, Inc., at the time of their respective inventions, the inventors were obligated to assign the rights to their invention to Applied Materials, Inc. Thus, the Applicants' invention and *Pu* were commonly assigned at the time of the Applicants' invention. Since this application is filed after November 29, 1999, *Pu* does not preclude patentability under the provisions of 35 U.S.C. § 103(c), as amended by the American Inventors Protection Act of 1999. See, MPEP 706.02(l)(1). Accordingly, the Applicants respectfully request the foregoing rejections under 35 U.S.C. §103 over *Pu* to claims 1-36 and 38-39 be withdrawn.

CONCLUSION

Thus, the Applicants submit that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issuance are earnestly solicited.

If, however, the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Mr. B. Todd Patterson at (713) 623-4844 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



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